

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

DISPLAY TECHNOLOGIES, LLC,

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Plaintiff,

Case No:

VS.

PATENT CASE

ASCENSIA DIABETES CARE US, INC.,

§§§§

Defendant.

COMPLAINT

Plaintiff Display Technologies, LLC (“Plaintiff” or “Display”) files this Complaint against Ascensia Diabetes Care US, Inc. (“Defendant” or “Ascensia”) for infringement of United States Patent No. 9,300,723 (the “‘723 Patent”).

PARTIES AND JURISDICTION

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.

3. Plaintiff is a Texas limited liability company with an address of 1 East Broward Boulevard, Suite 700, Ft. Lauderdale, FL 33301.

4. On information and belief, Defendant is a Delaware corporation with a principal place of business at 5 Wood Hollow Rd, Parsippany, NJ 07054. On information and belief, Defendant may be served through its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange St. Wilmington, DE 19801.

5. This Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. Upon information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in this District.

VENUE

7. On information and belief, venue is proper in this District under 28 U.S.C. § 1400(b) because Defendant is a resident of this District. Alternatively, acts of infringement are occurring in this District and Defendant has a regular and established place of business in this District.

COUNT I
(INFRINGEMENT OF UNITED STATES PATENT NO. 9,300,723)

8. Plaintiff incorporates paragraphs 1 through 7 herein by reference.

9. This cause of action arises under the patent laws of the United States and, in particular, under 35 U.S.C. §§ 271, *et seq.*

10. Plaintiff is the owner by assignment of the '723 Patent with sole rights to enforce the '723 Patent and sue infringers.

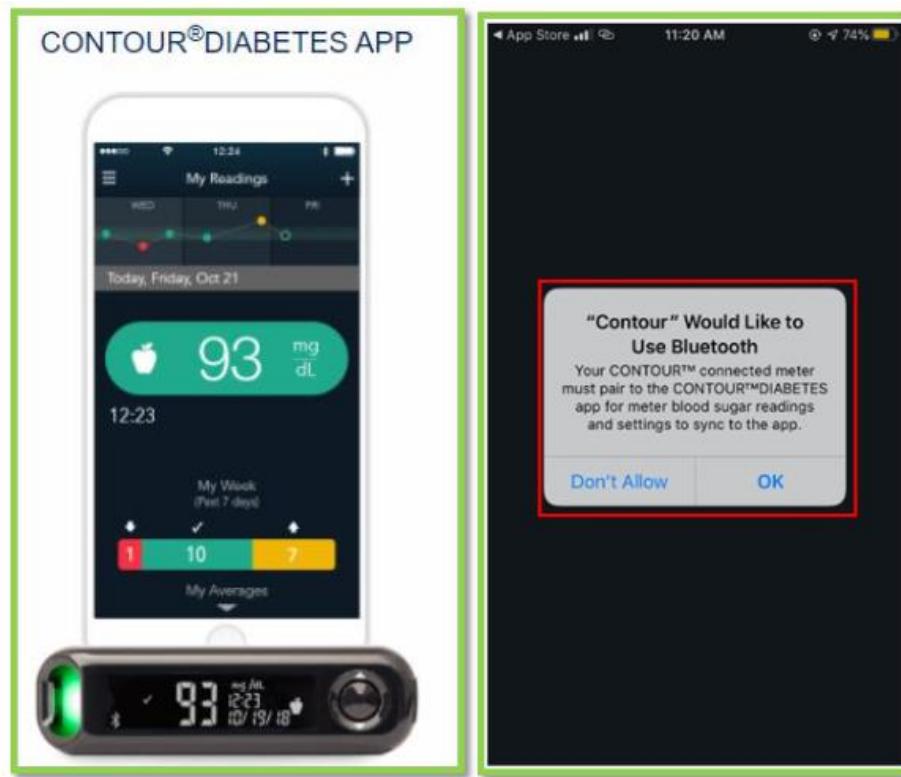
11. A copy of the '723 Patent, titled "Enabling social interactive wireless communications," is attached hereto as Exhibit A.

12. The '723 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

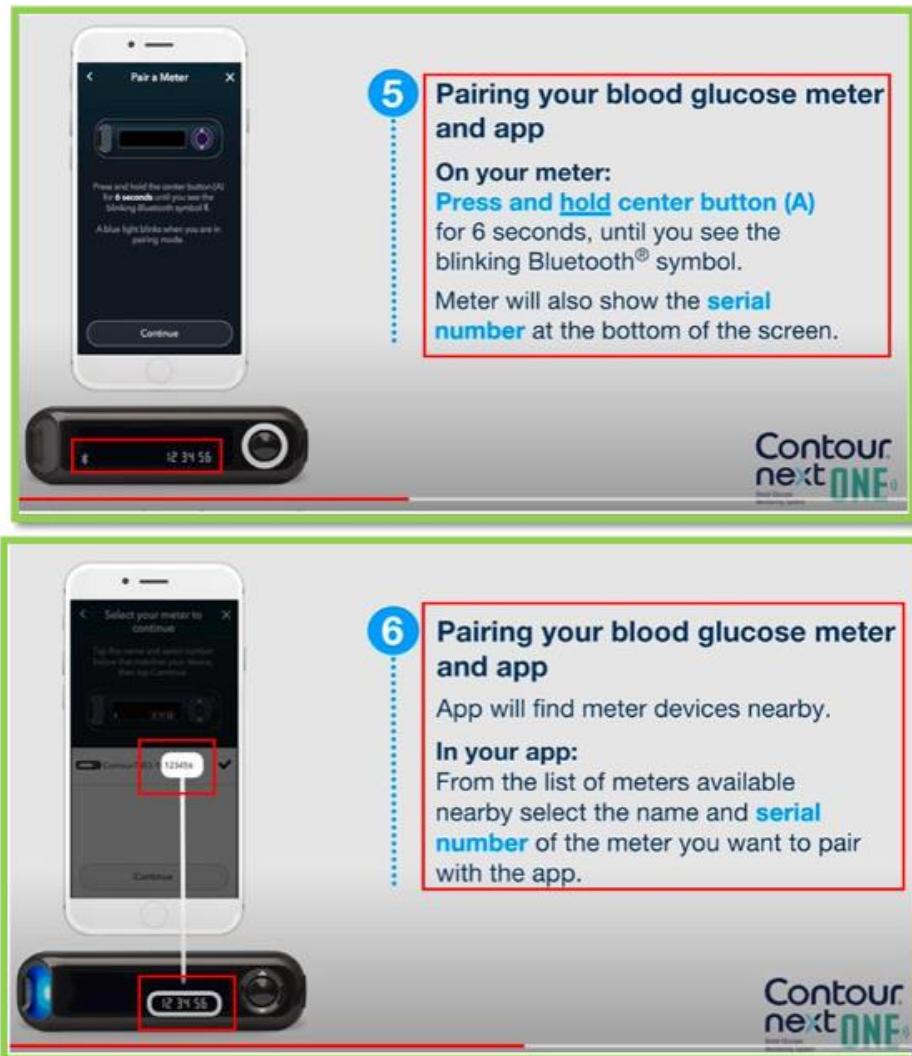
13. Defendant has infringed and continues to infringe one or more claims, including at least Claim 1 of the '723 Patent by making, using, and/or selling media systems covered by

one or more claims of the '723 Patent. For example, Defendant makes, uses, and/or sells the Contour diabetes app, Contour Next One monitor, associated software, hardware and/or apps, and any similar products ("Product"). Defendant has infringed and continues to infringe the '723 Patent in violation of 35 U.S.C. § 271.

14. Regarding Claim 1, the Product is a media system. The Product includes a media system (e.g., health app) configured to allow a user to view a media file (e.g., health data) from a medical device by a media terminal (e.g., smartphone) from a media node (e.g., medical device) over a communication network (e.g., Bluetooth network) through a communication link. Certain aspects of this element are illustrated in the screenshots below and/or those provided in connection with other allegations herein.



Source: <https://www.ascensiadiabetes.com/support/how-to-videos/>
Source: Screenshot taken from Smartphone.



Source: <https://www.youtube.com/watch?v=RLaCuznveQo>

The CONTOUR DIABETES app is intended for use by individuals with insulin and non-insulin treated diabetes, and/or their caregivers, to store, view, trend and share blood glucose meter readings, either manually entered in the app or wirelessly transmitted from the CONTOUR family of meters. Other related health indicators that can be captured and shown in a printable report and graphical format on a mobile device for insulin and non-insulin treated patients with diabetes are available to support diabetes management. The app is available for use on supported Apple iOS and Android devices and is designed to be used with a wirelessly enabled CONTOUR branded meter.



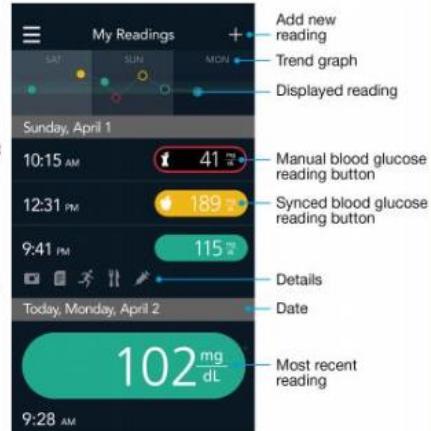
CAUTION: Bluetooth® connectivity allows readings to be transmitted from your meter to the CONTOUR DIABETES app. The app should only be used for a single individual. Do not pair another individual's meter with your compatible device.

My Readings

My Readings is the Home screen for the CONTOUR DIABETES app. This screen provides you with all of your readings in a list view that corresponds to the graph at the top of the screen. Your most recent reading will appear at the bottom of the list in a large button.

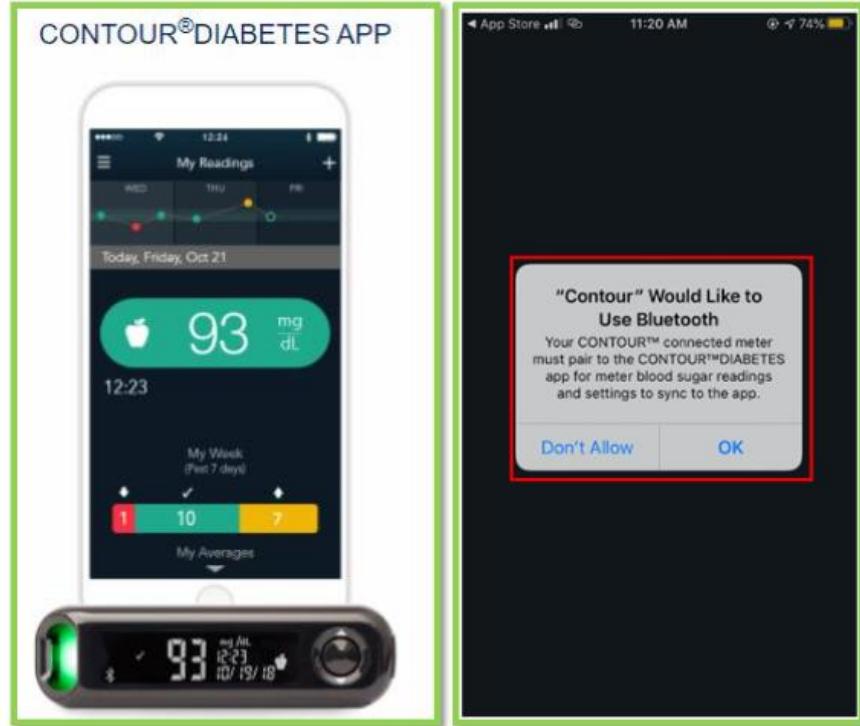
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Source: https://www.contournextone.com/siteassets/pdf/90001318_cntr_diabetes_app_gde_usr_usen_web.pdf

15. The Product includes at least one media terminal disposed in an accessible relation to at least one interactive computer network. For example, the Bluetooth network is used for sending health data from a media node (medical device) by detecting a smartphone (at least one media terminal) when the Product's app is installed on the smartphone and connected with the Product's media node through a Bluetooth network (i.e., the smartphone is in an accessible relationship with the interactive computer network). Certain aspects of this element are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.



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Source: Screenshot taken from Smartphone.

Simple to use, the remarkably* accurate CONTOUR®NEXT ONE smart meter and CONTOUR®DIABETES app seamlessly connect via Bluetooth technology to capture all your BG readings and help you to manage your diabetes, smarter.**

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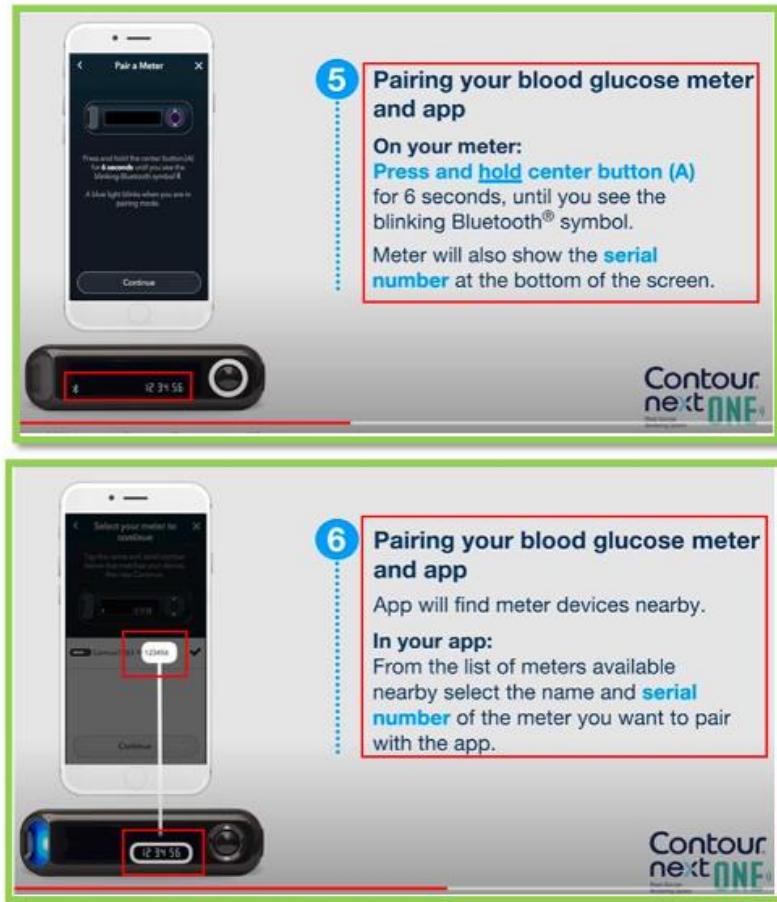
About the CONTOUR DIABETES app

The CONTOUR™DIABETES app is a cloud-enabled mobile application that operates on portable devices such as a smart phone or tablet running the Apple iOS or the Android operating system. The app uses Bluetooth Low Energy wireless technology to sync with the CONTOUR®NEXT ONE meter for seamless blood sugar monitoring.

This easy-to-use app can give you a better understanding of how your daily activities affect your blood sugar results to help you manage your diabetes. The CONTOUR NEXT ONE blood glucose monitoring system allows you to send your blood sugar test results to a mobile device for viewing and editing, and to the CONTOUR CLOUD for storage. The app also allows you to e-mail your data to your healthcare provider to help them support an effective diabetes management program for you.

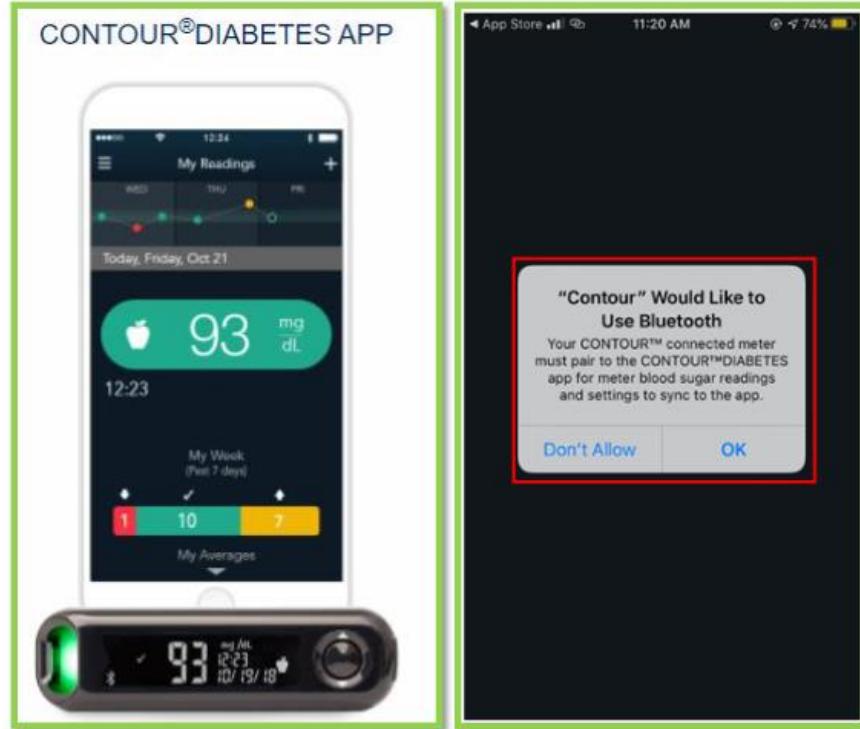
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16. A wireless range is structured to permit authorized access to the at least one interactive computer network. For example, the Bluetooth signals of the Product's medical device (media node) have a range within which the smartphone (media terminal) may connect.



Source: <https://www.youtube.com/watch?v=RLaCuznveQo>

17. At least one media node is disposable within the wireless range, wherein the at least one media node is detectable by the at least one media terminal. For example, the Product's medical device (media node) is detectable by the media terminal (smartphone). Certain aspects of this element are illustrated in the screenshots below and/or those provided in connection with other allegations herein.



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Your smart device and meter are able to communicate via Bluetooth. Be sure the meter is on and close to your mobile device when you try to pair and that your mobile device is working properly. The Bluetooth setting in your mobile device must be on. If you are trying to sync to the app and a connection is not being made, ensure the following:

- The meter is paired to the app.
- The meter is on.
- The Bluetooth setting on the CONTOUR NEXT ONE meter is on.
- The meter and app are close by each other.
- The Bluetooth setting on your mobile device is on.

NOTE: The Bluetooth symbol  will display on the meter if the meter is ready to connect to the app; this symbol **does not** tell you that the meter is connected to the app.

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18. At least one digital media file is initially disposed on at least one of the at least one media terminal or the at least one media node and the at least one media terminal is structured to detect the at least one media node disposed within the wireless range. For example, the health data is initially disposed on the media node (medical device/monitor) and the media terminal can detect the medical device when it is within the appropriate range. Certain aspects of this element are illustrated in the screenshots below and/or those provided in connection with other allegations herein.

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19. A communication link is structured to dispose the at least one media terminal and the at least one media node in a communicative relation with one another via the at least one interactive computer network. For example, the smartphone and medical device are in a communicative relation over the Bluetooth network.

20. The communication link is initiated by the at least one media terminal. For example, when the user turns on Bluetooth on the smartphone (media terminal), the smartphone initiates the communication link.

Your smart device and meter are able to communicate via Bluetooth. Be sure the meter is on and close to your mobile device when you try to pair and that your mobile device is working properly. The Bluetooth setting in your mobile device must be on. If you are trying to sync to the app and a connection is not being made, ensure the following:

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21. The at least one media node and the at least one media terminal are structured to transmit the at least one digital media file therebetween via the communication link. For example, the smartphone/app and the medical device are structured to transmit health data from the device to the smartphone over the wireless network.

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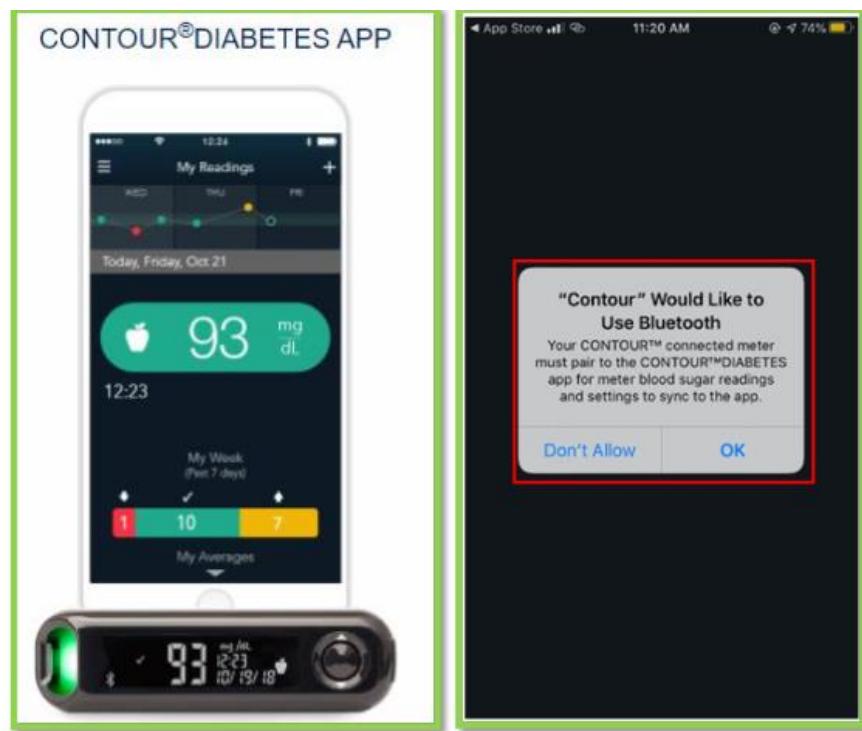
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22. The communication link is structured to bypass at least one media terminal security measure for a limited permissible use of the communication link by the media node to only transferring the at least one digital media file to, and displaying the at least one digital media file on, the at least one media terminal. For example, the communication link is structured so that whenever the user installs the Product's app on the smartphone (media terminal), the smartphone automatically connects (bypassing any security measures) with the Product's medical device through Bluetooth code (i.e., media terminal security) whenever the smartphone comes to the range of the Bluetooth signals (for the limited purpose of transferring data from the device to the smartphone).



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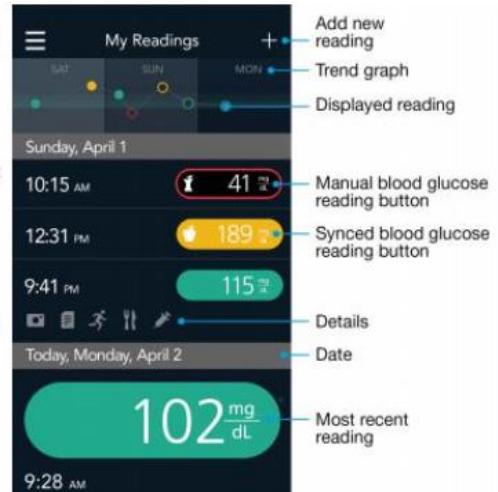
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23. Defendant's actions complained of herein will continue unless Defendant is

enjoined by this court.

24. Defendant's actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

25. Plaintiff is in compliance with 35 U.S.C. § 287.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

- (a) Enter judgment for Plaintiff on this Complaint on all causes of action asserted herein;
- (b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receive notice of the order from further infringement of United States Patent No. 9,300,723 (or, in the alternative, awarding Plaintiff running royalties from the time of judgment going forward);
- (c) Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;
- (d) Award Plaintiff pre-judgment and post-judgment interest and costs; and
- (e) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: August 31, 2021

Respectfully submitted,

Mark A. Kriegel
MARK KRIEGEL
LAW OFFICE OF MARK A. KRIEGEL, LLC
1479 Pennington Rd.
Ewing, NJ 08618
(609) 883-5133
Fax: (609) 450-7237
mkriegel@kriegellaw.com